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08/951,276	10/16/1997	DAVID G. MCCARTHY	402-038-19	1410

7590  
MARK P STONE  
25 THIRD STREET  
4TH FLOOR  
STAMFORD, CT 06905

04/01/2008

EXAMINER
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HAMMOND, BRIGGITTE R

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2833

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.



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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 08/951,276  
Filing Date: October 16, 1997  
Appellant(s): MCCARTHY, DAVID G.

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Mark P. Stone  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed January 09, 2008 appealing from the Office action mailed August 08, 2007

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The following are the related appeals, interferences, and judicial proceedings known to the examiner which may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal:

Appeal No. 2006-0159 and 2001-0076.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is incorrect. A correct statement of the status of the claims is as follows:

Claim 19 has been substituted for the finally rejected claim.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

A substantially correct copy of appealed claim 19 appears on page 1-2 of the Appendix to the appellant's brief. The minor errors are as follows: in claim 19, lines 12-

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13, deleted "and a housing mounted to an underside of said top surface of said article of furniture". This portion of the claim was not examined in the final office action.

#### **(8) Evidence Relied Upon**

3,646,244	Cole	2-1972
4,747,788	Byrne	5-1988

#### **(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

Claims 6,19 and 20 are rejected under 35 U.S.C. 103 (a) as being as being unpatentable over Cole 3,646,244 in view of Byrne. Regarding claims 6 and 19, Cole discloses a floor having a top surface 34 and an opening defined in said top surface; a receptacle unit 10 mounted in said opening in said top surface; said receptacle unit 10 comprising a top 22 and at least one sidewall extending downwardly from said top, said at least one sidewall having at least one receptacle 19 defined therein; means for selectively displacing said receptacle unit between a retracted position in which said top of said receptacle unit is planar with said top surface of said floor (see figs. 2 and 4), and an extended position in which said at least one receptacle in said at least one sidewall of said receptacle unit is elevated above the top surface of said floor (see figs. 3 & 4); and a housing 46 mounted to an underside of said top surface of said floor, said housing having an open top and being aligned with said opening defined in said top

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surface of said floor so as to receive said receptacle unit in said housing when said receptacle unit is in said retracted position, and means 45a,45b for resiliently biasing the receptacle unit into said extended position, and cooperating releasable locking means 27,37 for opposing said biasing means and for retaining said the unit in said retractable position. Cole does not disclose the receptacle being mounted in an article of furniture. However, mounting receptacles in articles of furniture is well known in the art as evidenced by Byrne. Byrne discloses a retractable receptacle 150 with sidewalls (front side of box 152) mounted in an opening in a top surface of an article of furniture 104. Therefore, it would have been obvious to one of ordinary skill in the art to use the receptacle in an article of furniture for providing conveniently located electrical power source receptacles in/on a work surface such as a desk top or similar article of furniture as taught by Byrne.

Regarding claim 20, said housing 46 includes means 64 for coupling said receptacle unit to an external power source.

#### **(10) Response to Arguments**

In response Appellant's argument that "elements 45a, 45b do not urge the housing into it's extended position" (page 9, lines 10-11). The Examiner disagrees. Appellant recites "means for resiliently biasing the receptacle unit into said extended position". Cole provides means 45a,45b for resiliently biasing the receptacle unit into said extended position and maintains in a bias state by keeping it up. Since elements 45a,b are springs, when the receptacle unit 10 is manually pulled upward, means 45a,45b help bias the receptacle unit into the extended position.

In response Appellant's argument that "elements 45a,45b are stops and "cannot exert a resilient bias on the housing urging it into its extended position" (page 11, last paragraph through page 12, first paragraph lines.) The Examiner disagrees. Appellant recites "means for resiliently biasing the receptacle unit into said extended position". Cole provides means 45a, 45b for resiliently biasing the receptacle unit into said extended position and maintains in a bias state by keeping it up. If the means 45a, 45b were not biasing the receptacle into the extended position, the receptacle would fall back into the non-extended position.

In response Appellant's arguments that elements 27,37 of the Cole device do not provide releaseable (*able to be released*) locking means, ( page 12, lines 19-20). The Examiner disagrees and draws Appellant's attention to figure 5 which shows that element 27, 37 is able to be released and provides.

**(11) Related Proceeding(s) Appendix**

Copies of the court or Board decision(s) identified in the Related Appeals and Interferences section of this examiner's answer are provided herein.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Brigitte R. Hammond/

Primary Examiner, Art Unit 2833

Conferees:

Paula Bradley /P. B./

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Supervisory Patent Examiner, Art Unit 2833

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Brigitte R. Hammond /BH/